

SECTION 4

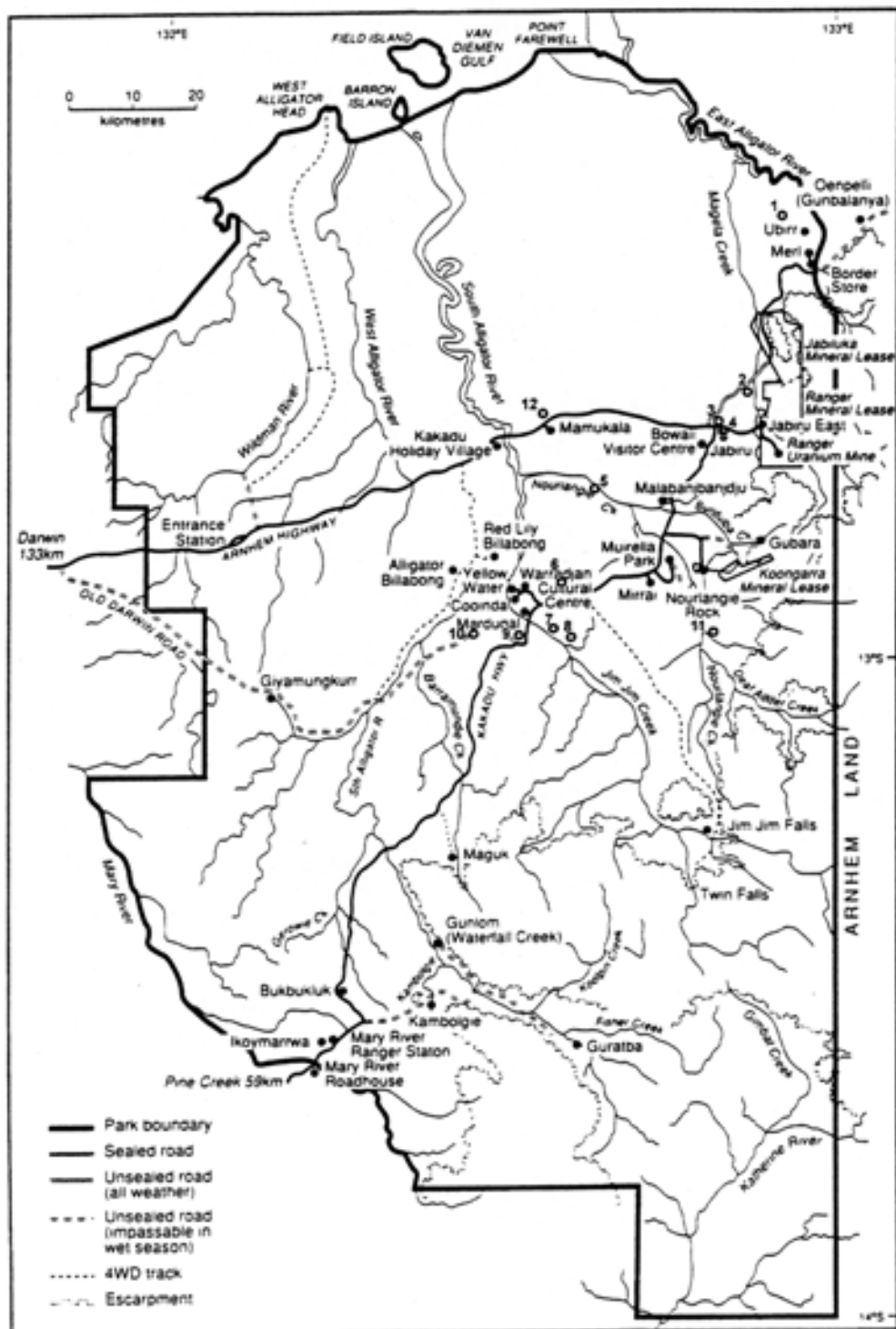
Institutional Relationships and the Disposition of Power

4.1 Aboriginal Views

A previous section reviewed the establishment of what was called the new Kakadu regime from the late 1970s. Since that time a large Aboriginal population has established itself in the Kakadu region. The Committee wanted to canvass as widely as possible the views of those people regarding the distribution of authority and responsibility among the organisations of the area, and the exercise of that authority with respect to country. A consultant, Richie Howitt, put to the Committee a possible conceptual framework around which such consultations could proceed (Howitt 1997: Attachment 2), which was subsequently revised. The program of consultations with local people was joined with the consultations being carried out by Greg Crough for his work on the regional economy, so that alongside "The Money Story", was also presented "The Country Story" prepared by Darryl Cronin of Gundjehmi Corporation. The remainder of this sub-section is based on their report, on further notes taken by the Project Officer, Mel Sheppard, who organised and attended all meetings, and on other feedback received by the Project Team during its general consultation work.

The consultations were held at Patonga Airstrip, Warradjan, Park Headquarters, Mudginberri, Jabiru, Mamukala, and East Alligator within the Kakadu region, and at Kybrook and Gunbalanya for groups with Kakadu affiliations that lived outside (see map overleaf). Most places were visited twice. After first planning and beginning the program of meetings around residential groups, the consultants sought a better response by reorganising meetings notionally around a core of one clan, or a number of clans, which generally met as sections of families or of related families.

The first round of meetings was intended to give information that would both clarify the jurisdictions and roles of each of the organisations that operate in the region, and allow people to begin conceptualising as a totality the existing distribution of authority and the Aboriginal position in relation to that structure. The organisations covered were the Northern Land Council, Parks Australia North, the Environmental Research Institute of the Supervising



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|-----------------|---------------------|-----------------|
| ○ Outstations | | |
| 1 Cannon Hill | 5 Nourlangie | 9 Paradise Farm |
| 2 Madjinbardi | 6 Red Lily | 10 Spring Peak |
| 3 Kurrabng Flat | 7 Patonga Airstrip | 11 Goolongorr |
| 4 Manaburduma | 8 Patonga Homestead | 12 Mamukala |

Outstations in the Kakadu Region

Source: Australian Nature Conservation Agency & North Australia Research Unit, ANU

Scientist, Jabiru Town Council, Energy Resources of Australia, and the four local Aboriginal organisations: Gagudju Association, Djabulukgu Association, Gundjehmi Aboriginal Corporation, and Minitja Aboriginal Corporation. An outline of the information presented about each is given in the consultants' report to the Aboriginal Project Committee. The consultants pointed to the contrast between the legal powers exercised by non-Aboriginal organisations (including, they argue, the Northern Land Council), and the absence of legal jurisdiction exercised by Aboriginal organisations.

In consulting with local Aboriginal meetings, the consultants found that the opinions expressed tended to identify two groups. One of these consisted of people who were literate and educated, employed in organisations and sitting on committees or boards, and enjoying supportive relationships with non-Aborigines. The other was larger, consisting of people generally neither employed nor literate, and with fewer and less developed relationships with employing organisations or with individual non-Aborigines.

Each of these groups of bining have quite different views on many of the issues we discussed. For example, many of the people in the first group think that bining should put most of their effort into working through the bining and balanda organisations to solve their problems. They think that the establishment of the organisations in the region has been good for bining because it has opened up opportunities for employment and training and given bining more control. Most of these people are keen to see more development in the region and believe that such development will benefit bining.

Many other bining, on the other hand, think that the bining and balanda organisations have been imposed on the region by balanda. There is a strong view expressed that these organisations have a lot of the power to control what happens on the country. They put more emphasis on strengthening bining law and culture and ask why bining have to work through the bining and balanda organisations to solve their problems. Many of these bining are very pessimistic about the future of the region and their country and see that further development will only make the existing problems worse.

(Crough and Cronin 1997:33-34)

The Aboriginal Project Committee objected to this division. A number of members repudiated the idea that literate and educated Aborigines, or those in employment, are any less concerned to strengthen Aboriginal culture.

With respect to the authority exercised by non-Aboriginal organisations, the consultants pointed to a need for more information to be provided more widely to Aboriginal people if

they were to understand the structures and processes that govern their country. The consultants question whether the heavy reliance on personal relationships, which are often perceived by Aboriginal people as central to the successful operation of such organisations, is a secure basis upon which to conduct the relationship between non-Aboriginal organisations and Aboriginal people. The consultants further identified a feeling that such organisations filled too much of the public space in the region:

The expression 'moving balanda law and power back' was used a number of times during the meetings. This form of wording probably reflects the way we presented the information in the meetings. It was, however, generally felt that more space needed to be created for bininj and their own law and culture. Very few people were able to say how they thought this could be done and many felt that it was no longer possible.

(Crough and Cronin 1997:35)

It's balanda running meetings and answering questions. Balanda makes the road.

Government is shutting out bininj law, they won't recognise our law.

(APC field notes)

The consultations focussed attention on the roles of the organisations listed above. Set out in the following paragraphs are the Aboriginal comments quoted in the consultants' report about each of the organisations discussed during the consultations, supplemented by Aboriginal Project Committee field notes.

Northern Land Council

The NLC is cutting bininj off and we should cut them out of the picture. They do not do anything for bininj here anyway so they should get out.

Are they help traditional owners or not? Or are they representing balanda? Are they sitting down doing nothing?

NLC have central power and they're feathering everyone else's nest. Parks, ERA and all them.

NLC use all that mining money to fly us back and forth to listen to their bullshit. But we can't fly NLC over here to listen to us. We can't get mining company to come here.

It all boils down to the [Aboriginal Land Rights] Act. What the land councils are now doing is using the Act. What does it say about traditional owners having the final say

over their country? Or does someone else have the final say? Should we have that same Act as our guide? Who can we go to? Looks like that Act is not good enough.

NLC supposed to monitor organisations. If they had done their job properly Gagudju would not have got in trouble.

NLC must be made to do their job on land and mining. Look at Gunbalanya. Balanda go wherever they want. NLC not doing anything.

...

NLC does not follow their own policies. They are too busy looking at small issues, rather than the real issues. NLC did a lot of good things in the early days but they just got carried away. NLC won't change if they got same staff. Need to employ bining who speak language. They need to tighten up their policies.

...

People see NLC as negotiators for mining. Something has to be done about NLC office.

...

NLC supposed to go to the associations, then go to bining. Associations do not have legal backup. NLC supposed to back bining up.

(Crough and Cronin 1997:37-38,42-43,51,54)

NLC is OK, does its job. It should support clan owners more.

NLC are causing problems between bininj, fighting over money, they just create another association to remove the source of conflict. (APC field notes)

The consultants comment that the NLC was the most generally criticised organisation. Of the few ideas regarding possible improvements or alternatives, that of transferring responsibilities to local Aboriginal organisations encountered the difficulty that these organisations were themselves criticised, and that of a new local land council was treated cautiously. Inadequate staff resources is a major limiting problem for the NLC, and the forthcoming review of their legislation a major element of uncertainty regarding potential changes to their relationship with their Kakadu constituency.

Environmental Research Institute of the Supervising Scientist

In my opinion, ERISS are doing a good job, looking out for country down through the Magela, for fish and all that. Before, we did have more communication with them, when they were OSS.

We don't know what goes on. They should take binning with them everytime they go around country. They might get a trainee out of it, then people would know what they're doing. And they'd learn both ways.

ERISS has been going down the Magela without talking to binning. There is a powerful site on the floodplain.

ERISS does not tell us what they do. Community does not get reports from town. They are doing a lot of research we don't know about.

Do ERISS test the food in water? Do they just test the flesh? We eat the guts, the liver of fish. The scientists don't eat the food. Have the scientists found anything when they test?

The scientists sit quiet. Do nothing. We got outsiders to look after us as well. But they do nothing either. NLC should be talking to ERISS for us, and also to Park mob, ERA mob, town mob. (Crough and Cronin 1997:38-39)

We want honesty, no bullshit. Too much is hidden. Aboriginal liaison position should be binning and balanda together. Train someone local up to take over that job. (APC field notes)

The consultants comment that there is a low awareness among Aborigines of the role ERISS plays, and where such awareness does exist, there is concern over the failure to explain research results and the lack of attention to Aboriginal knowledge. The issue that turned relations between Aborigines and ERISS into a matter of policy concern was ERA's water-release program.

Of course that water's bad for us. If they asked first, we would say no. We always tell them that. We go hunting for turtle and fishing and everything.

The release of the water affects the food chain but we won't know until later.

I heard that water is flowing from the mine. The scientists are talking shit. You don't know what's going on behind closed doors. (Crough and Cronin 1997:48)

Why don't they make another pond to hold the water? They can stop overflow from ponds by making another pond.

We don't want radioactive water in river systems. They have to start using their brains. (APC field notes)

ERISS have acknowledged that Aboriginal mistrust of their recommendations on this issue was one of the factors that made them aware of the need for major changes in both work practice and institutional culture.

Parks Australia North

The meetings for the draft plan of management were good because you knew about Park issues and they took down what we said.

Parks way of managing is to over-develop, to put in big infrastructure.

Why open more [land in Kakadu] when Parks can't even manage what they've got?

Parks seem to be only worried about the fishermen rather than binning views.

The Board needs more assertive people. An idea gets put forward by a balanda and they just asked to agree. No discussion.

Board of Management and secretary explain things to the association committees. But it does not seem to get out.

Bining are on Board of Management and Parks talk to binning. But NLC not doing their job.

Parks only ask the cultural adviser, not the people. He never talks to other people.

The cultural adviser positions were created to advise on behalf of the clans. If it is not working then it should be addressed. This has to be resolved on the ground in the Aboriginal way. Also a lack of education affects people's understanding of what is happening.

The cultural adviser never tells us what's going on. He should organise a meeting for us binning to talk about things.

Cultural advisers represent north and south end of Park. It is the secretary of the Board's job to talk to binning.

Parks would rather have a lot to do with the town, but they don't want to be seen to be running it. Associations could run it. Parks support traditional owners.

They've already decided what they want when they go into the meeting. They know people can't decide without talking to the clan. Why can't they tell people what they need decisions about before the meeting so clans can be consulted?

Parks aren't employing enough binning from this area. When 6 months work is available to fill in a job, they have to talk to all binning.

....

The establishment of the Board of Management is regarded as an improvement on the previous arrangements. But there is still a widely held view (including by some bininj board members) that it is a balanda forum that largely responds to balanda agendas. There is also criticism of some of the priorities of the Parks management and concern that other matters of concern to bininj are not being properly dealt with. These include, for example, certain land management matters, the numbers of tour operators bringing tourists to the Park, and the view that not enough is being done to employ more bininj in the Park.

Fire is written into the Plan of Management. It should be done bininj way but balanda does it his way. Parks says bininj burning is humbug. Parks don't want hot fires.
(Crough and Cronin 1997:39-40, 43)

A lot of people don't want to be Park managers, it's too much stress and humbug. They'd rather spend time with family and get someone else to represent them. People don't want to have to fight forever.

Parks need to consult bininj about Plan of Management because it will affect us for the next five years. We won't have a say once it goes through parliament.

Bininj can talk strong on Board of Management but not much power.

Parks is strong now. Their policies are for bininj people.

Flying Fox dreaming at Nourlangie, people been going there, same problem at Magela, tourist going in. Tourist going places they should not be going.

There are too many levels of authority in Parks. It should be simpler like on the stations: white boss, Aboriginal head stockman and assistant head stockman and that's it. People don't know where to go with Parks. (APC field notes)

The consultants comment that Parks have a clearly better relationship with local Aboriginal people than any other organisation, achieved through its employment record, personal relationships, and its efforts in land management. Critical comments clustered around issues of communication. The domination of the Board of Management agendas by non-Aboriginal priorities and concerns, the failure to really engage with Aboriginal notions of land management, the non-Aboriginal monopoly of technical and administrative expertise, and the failure of both Board members and Cultural Advisors to inform and consult widely over Parks issues, are all seen as aspects of a Parks system that provides only for a conditional and limited Aboriginal involvement.

Tourism, provided significant places were protected, was seen by some as an opportunity for Aboriginal enterprise, as was exploitation of feral animals. On a possible future transfer to Northern Territory Government control, further comments were:

If the Kakadu National Park goes under NT Government responsibilities there will be a big difference. There are genuine people in Parks trying to give binning opportunities. My feedback from NT Parks is not good. NT Government can't be trusted with money and running the Park. Parks and the Federal Government are trusted by binning.

The NT Government had their chance in the 1970s when CCNT was running the conservation reserve out here. Some people here would oppose NT control. But NT Government have been influencing Aboriginal people to accept NT control. People in the system now would probably be replaced by NT Government people who have mates in the Government. A different attitude to Aboriginal people.

The Board will have to thrash this issue out. (Crough and Cronin 1997:40-41)

Information here is local, so park management should be too, as long as NT government is well resourced and criteria for binning control is included.

(APC field notes)

There are two other jurisdictional issues that have drawn comment. The first is land ownership: the entire Park, including Jabiru, should be Aboriginal land. The second is the overriding powers of the Director and Minister. The Board of Management is seen by some as only a Government advisory body, not an instrument of Aboriginal authority. One Committee member argues that it should be re-constituted under the Land Rights Act, with the same composition, in order to ensure its own statutory power.

With respect to land management, the imposition of a burning regime that is inconsistent with Aboriginal hunting and foraging needs is a principal concern. During the 1996 dry season, Aborigines lit a number of dry season fires that were considered too late by Park staff. One resident commented that Park Rangers had approached him about a fire he had lit after the Park's own burning program had closed. For them, it was a late, hot fire of the kind that they try to avoid. For him, it was a successful dry season hunting fire, within the proper period, which had netted him some kangaroos. Conversely, the Park practice of preserving some areas of spear grass for early wet season burning, in order to reduce the spear grass load in subsequent seasons, is considered by some Aboriginal observers contrary to traditional

practice. In 1996 a number of these set-aside areas were fired by Aborigines during the dry season.

Jabiru Town Council

Town Council has been pretty good for 2 years since [named person] got here.

There should be someone Aboriginal really good working for the Town Council. They should go around all the camps and find out what all people think then take it to Council meeting.

Jabiru council has not had much to do with bining. Normalisation will mean that the town becomes open for land sales. Board of Management has discussed options for the town. But bining need to be better informed.

Town Council should help more in town camp. (Crough and Cronin 1997:41)

The consultants comment that Aboriginal responses concerning Jabiru were sparse and there is little awareness of the issue of “normalisation”, a finding confirmed in the sub-section below devoted to Jabiru issues.

But most bining did say that they do not want Jabiru to get any bigger and do not want more balanda coming to live in Jabiru. If bining could get more jobs then there would be no need for so many balanda to live in Jabiru. (Crough and Cronin 1997:41)

Energy Resources of Australia

Most comments recorded about the company dealt with the water release issue that has been included above in discussion of ERISS. Further comments on other mine-related matters have also been noted in other sections of this report. Some others were:

For the first few years things were better with the mine. Things have gotten worse since then and no efforts been made to make them better.

I don't think Ranger have done anything to address Aboriginal needs.

Company policy has got to fit in more with bininj lifestyle [to encourage employment].

More induction at the mine needed for employees about bininj culture, country.

We worry about effects of the mine on country.

How are we going to stop mining? What is best for us?

(APC field notes)

Overview

Reviewing the question of the distribution of authority, the consultants argue that the basic status of Aboriginal people as landowners is not given sufficient recognition at the level of management and control.

This is not government development for Aboriginal people. Gagudju way has been choked out by all the new things of balanda way.

(APC field notes)

They propose two kinds of revision of the institutional relationships governing the Kakadu region. The first is recognition that Aboriginal landowners should have the right to select, and contract for, provision of services to the region, rather than having to accept the service-providers put in place by Government design in the late 1970s. So, for example, rather than having to use the legal and negotiating resources of the Northern Land Council, they should be able to choose and purchase their own advocacy expertise, whether the NLC or other. Although the consultants do not extend their discussion of examples, presumably this model is intended to apply to any kind of servicing, from environmental monitoring to outstation garbage collection. From discussion with one of the consultants, the idea here is that adequate independent funding would introduce a new negotiating environment, in that Aboriginal interests would have the capacity to "bring their own money to the table" in discussions with regional service agencies, and thereby allow those agencies to better service Aboriginal interests. ERISS points out that it is already approaching this model in its research at Maningrida, where Aboriginal money contributes to research into sustainable use of wetlands for Aboriginal purposes.

This entails a thorough re-thinking of prevailing legal and financial relationships. Statutory amendments would be required to introduce room for such choice, and an adjustment of the distributions of royalty-equivalent payments would have to be legislated to direct a larger

proportion to local traditional owners to provide them with the wherewithal to exercise choice. Crough and Cronin comment:

There is . . . a strong view that too much of the money from mining on bining land never actually arrives in the region. When the Ranger and Jabiluka agreements were being negotiated many bining asked why if they had to have mining so much of the money went to the land council in Alice Springs (CLC), the NLC and other bining who did not have (or want) mining on their land.

That 40 per cent [going to the NLC under the Aboriginal Land Rights Act] should stay here. That Land Rights Act should be changed to give more for bining.

NLC should not be able to go back to the ABTA for more dollars.

The bining organisations in Jabiru do not get funds from the ABTA because Land Councils are on the ABTA and they know people get money from mining.

The Land Councils get money from mining out here. What do Aboriginal people get back?

It seems a small problem is getting big. Clan groups need to sit down and talk about money issues and get advice on where it is going. No good pointing the figure [sic] at each other.
(Crough and Cronin 1997:52)

Bit of a rip-off the amount that goes to ABTA. (APC field notes)

The consultants also comment that the "end result may be changes to the leasing arrangements for the land in the Park and the way services and other activities are financed" (Crough and Cronin 1997:42). This seems to imply that more money could also be directed to Aboriginal owners from Park income. There has up to now however been a preference on the part of traditional owners for the Park rental moneys due to them to be distributed as individual cash entitlements rather than collectively used for community purposes.

The second is recognition of the local patrilineal descent groups, the clans, as the structural level at which Aboriginal decision-making occurs, and the development of a more formal process of articulation between land management agencies and that structure. In particular, it is argued that Parks rely on Aboriginal advice from too few people. This recognition should also serve as a basis for rethinking political relations between Aboriginal people themselves. In this view, the clan system is intended to provide a structural locus within which Aboriginal law and decision-making processes can be applied. There is, however, considerable

ambivalence about the vitality and viability of that domain of knowledge. Comments, sometimes from the same people, are both doubtful and assertive.

Bining law has to be part of the system. Parks should not recognise bining ways if they don't follow them. But bining system has to be made strong.

Our law, I don't understand where it's going.

No more law for bining. Old people been solid, but balanda brought in money and gunbang and bining forgot about law.

There are not enough people left to look after the country.

Bining are not bining anymore.

Young people in school should have to learn language, culture and how things happen in their country. Going to meetings, making notes and decisions should be part of school.

Bining have got road. Our law is very strong. You won't understand. My father was very tough. The business stays bush. We don't talk about it here. Every community same law. Bining has still got power. We don't forget.

When I go hunting I get fish. Old people say if you break law you get in trouble. Paddy Cahill and Joe Cooper settle people down and give them flour and sugar. Missionaries at Gunbalanya. But Aborigine law is there, we got it.

ERISS, JTC and ERA should listen more to bining and bining law. Bining are the bosses. (Crough and Cronin 1997:43-45)

The notion of clan authority is further discussed above at section 3.3.

4.2 Jabiru

The town of Jabiru was built on land that was included in Kakadu National Park but which the Ranger Inquiry removed from availability for claim by traditional owners under the Land Rights Act. It is part of the Mirarr Gundjehmi clan estate, and as the traditional owners were successful in establishing their ownership of the remainder of their country in the two land claims, it is reasonable to surmise that they would have been similarly successful over Jabiru had they been allowed. The decision to make Jabiru unavailable for claim was entailed by the Ranger Inquiry's dismissal of Aboriginal opposition to uranium mining. The Inquiry was

concerned that a grant to the traditional owners would give the Northern Land Council another means of preventing mining in the region by preventing construction of town accommodation for the workforce.

This section is based on the consultancy report prepared for this Study by Sue Kesteven and John Lea (1997). Jabiru was established as a closed mining town, with no provision for Aborigines or tourists. It was anticipated that Aborigines would use the town services only as visitors, and that permanent accommodation and servicing for them would not be needed. Jabiru was thus planned as the major non-Aboriginal precinct in the Kakadu region, but one at which Aborigines would have no permanent presence, and with which they would need have minimal concern and involvement. There was no representation of Aboriginal interests on the Jabiru Town Development Authority, the NLC declining or unable to take up two positions offered to it, and the original Jabiru Town Plan, which is still in force, included no provision for indigenous needs.

The social history of the Alligator Rivers region, including the immediate pre-mining history of Mudginberri and Jabiru East, shows a clear and long-standing pattern of Aboriginal residence around points at which non-Aboriginal goods and services were available. There are also a number of known instances where Aboriginal people abandoned a place from which the supply of a favoured commodity was cut off. Given this history, the expectation that non-employed Aboriginal use of Jabiru would be restricted to transients was ill-founded. Given the immediate attraction of Aborigines to Jabiru East during the main town's construction period, and the substantial reservoir of people at Mudginberri, it is surprising that the notion of a town exclusively devoted to servicing the needs of mine workers could have been sustained by the planners.

As it happened, Jabiru was immediately incorporated into the residential range of people living at Mudginberri, and also attracted some people from Gunbalanya. The fact of permanent Aboriginal residence on the edge of Jabiru was officially recognised in 1983. Lea comments:

Thus the early historical evidence points to the fact that although Jabiru was designed as a mining only town, it became evident from the outset that it would be a mixed non-Aboriginal and Aboriginal community. The management structures devised for the non-Aboriginal town were subsequently used to try and accommodate the

permanent Aboriginal presence, with no real understanding of how this might be accomplished or how the situation would develop in the future.

(Kesteven and Lea 1997:11)

He continues later:

Today, the changed climate of Aboriginal advancement, land rights and Native Title, together with effects on the town of possible new mining activity, has necessarily led to questioning the adequacy of Aboriginal involvement in town management. This is seen particularly in the case of the moves to upgrade the town plan and introduce community government.

(Kesteven and Lea 1997:21)

Some of the current residents of Manaburduma Camp have been there permanently since its early years. Some places in the town such as the Jabiru Sports and Social Club, the Gagudju Association office, and the Foodland supermarket and some other retail outlets, have long been a major focus of Aboriginal interest, and in recent years, the senior traditional owner and a number of her siblings have taken up regular residence in suburban houses. During the 1980s a pattern developed of transient use of Manaburduma by drinkers who created difficulties for some permanent residents. This led to the construction of a separate dry area of three houses.

We are currently in a decision-making phase with respect to future arrangements for Jabiru, even apart from this Study, as a new Draft Jabiru Control Plan is under consideration as part of the process of approving the new Kakadu National Park Plan of Management. It is at this level of decision-making, through the Aboriginal majority on the Board of Management, that Aboriginal influence is maximised with respect to the affairs of Jabiru. As with the Park as a whole, however, that influence is subject to the overriding powers of the Commonwealth Minister for the Environment, and to reservations about the independent technical resources that the Aboriginal majority on the Board is able to command. There is also the larger question of whether a Park Plan of Management is an appropriate instrument to serve as a town development plan, and the related problem of a conservation bureaucracy being caught up in multi-party processes for resolution of specific town management issues, such as the issuing of temporary liquor licenses. The general issue here, then, is the effectiveness of the oversight that Aborigines can exercise from within the Board of Management: whether a more direct and low-level engagement in the management of Jabiru is needed to protect and advance Aboriginal interests in, and with respect to, the affairs of the town.

Lea lists the instances of direct Aboriginal participation in town affairs:

It is evident that Aboriginal involvement in urban management at this level has been minimal in the past, being confined primarily to occasional Aboriginal council minority membership (there is currently one out of the 7 elected council members who is of Aboriginal descent). Evidence of Aboriginal participation in some key urban developments is found at an early stage of town establishment (such as the arrangements for Manaburduma housing and facilities). These appear to have been conducted primarily by the NLC on behalf [sic] Aboriginal traditional owners . . . There is Aboriginal participation in town management via the fortnightly visits by the Town Clerk to Manaburduma to consult with people about their needs and requirements. The provision of a public telephone and new housing funds arose out of this process. Other features of Aboriginal involvement in urban amenities are in the form of requests for housing maintenance made at the JTC front counter and requests for assistance from other service providers in the town. More physical services are required in Manaburduma, however, and the Aboriginal community itself has reacted to problems of substance abuse by creating "wet" and "dry" areas.

(Kesteven and Lea 1997:20)

If the conditions governing access to land and housing in Jabiru are now to be re-thought, what provision will be made this time for Aborigines? Plainly, the family of principal traditional owners, who now spend most of their time living in Jabiru, are entitled to primary consideration. Those owners could also claim a traditional entitlement to vet other Aboriginal people seeking residence, or the purchase of a town lease, on their country. They are entitled to expect information about land to which new leasing provisions might apply and the possible future uses of it, and to have their views and interests considered in the administration process. Broadly, they have a general entitlement to be advised and consulted about the planning and functioning of the town, but this raises a problem of the impact of consultations and meetings. Presumably some acceptable delegation arrangement will have to be worked out to insulate the traditional owners from these pressures.

Mirarr is boss of the land in Jabiru not balanda. It is all bininj land but they cut out the town area and made it balanda land. (APC field notes)

Aboriginal organisations have an interest in the questions of the extension of the head-lease and new leasing arrangements with respect to their commercial interests and with respect to present and possible future community servicing functions in Jabiru. The Aboriginal residents of Manaburduma are concerned about the size of the non-Aboriginal population of Jabiru and

program of social impact monitoring. It proposes an initial twelve month position to design a social impact research program, and to establish procedures for communicating the significance of ERISS' work to Aboriginal people and for involving them in it. The Committee has endorsed this proposal provided that the recommendations emanating from it take cognisance of the outcomes of this Study.

A number of other matters could be raised regarding the model of social impact monitoring proposed by Kesteven. The relationships set out in Kesteven's model will have to be negotiated before being reduced to Memoranda of Understanding. The husbanding of these negotiations could be added to the list of duties of the proposed ERISS position. It is not clear how prescriptive the Memoranda are intended, or need, to be. Will they go beyond laying down the basic presumptions and ethos of these relationships? A number of specific issues will have to be decided. Two come readily to mind. Will ERISS be represented on the Aboriginal committee? ERISS has the power to obtain information relevant to its functions from anyone; should the committee have the right to see any such information?

A second matter is that ERA does not itself appear in the model, unless under the category of "Others" in the bottom box, and the NLC is also not shown, unless included among the "Aboriginal organisations". A third is that the Aboriginal committee will be another committee, with another schedule of meetings for people to attend. This is a matter of concern against a background of widespread fatigue over meetings, and especially given that the prevailing trend is towards even more community and committee meetings, including the governing committees for the proposed Outstation Resource Centre and Women's Resource Centre that may emanate from this Study. The only option suggested to reduce this impact is for the committee governing the Outstation Resource Centre to double as the committee representing Aboriginal interests for social impact monitoring, given some extra representation from Gunbalanya. The problem here is that such a committee would itself be a major service provider, thereby raising the same conflict-of-interest problem that counted against a number of organisations as possible hosts for the research team. Could a Memorandum of Understanding between ERISS and such a committee preserve the ability of the research team to scrutinise the work of that committee in its service-delivery role? It is also not clear from the model whether the Aboriginal committee is intended to be serviced by its own secretariat or by ERISS. The administrative load of servicing the committee needs to

Jabiru is an especially difficult area for Aborigines to deal with for a number of reasons: previous lack of involvement in decision-making, the number of stakeholders and agendas involved, the legal and institutional complexity of authority and control over the town, and the cultural strangeness of town planning and management issues themselves. On this issue probably more than any other then, time will be required to work up an intellectual orientation to the field from which opinions can be formed and positions developed. The workshops proposed by Town Council may be a useful step. The proposed Community Government scheme and any revision of the cost-sharing agreement or changes in land tenure to allow for a greater variety of lessee uses would properly be further subject to a social impact statement. Again, expansion of alcohol availability would be a primary concern. The ability of Aboriginal interests to acquire properties for community service purposes would also need attention, especially prior to any steps towards creation of a local property market.

In the longer term, there is the question of a "vision" for Jabiru. Is the relationship between Jabiru and the region's mining industry to be re-thought? What future should the town have independent of that industry? Will an agreed extension of the town head-lease amount to a de facto Aboriginal acceptance of the permanence of the town? Even now, is the Kakadu region a liveable place for Aborigines without the town?

Jabiru is good, it provides services for local bininj that allows bininj to stay on own country. That way bininj don't have to travel such long distances to get supplies, services etc
(APC field notes)

The effluxion of time is probably entrenching Jabiru in the landscape, from the points of view both of diversified commercial interests (including Aboriginal-owned ones) and Aboriginal adaptations. If that is so, it should be no reason not to re-think the purposes and management of the town for those Aboriginal interests from which it was originally intended to be an insulated precinct.

Current planning and managerial arrangements for Jabiru have been reviewed by the NT Government in the absence of an overall and fully participative examination of the needs of the region. Planning is reactionary rather than forward looking and set against an uncertain development context where the wishes of Kakadu Aboriginal people have generally not been known or understood. Similarly, few Aborigines have understood the urban development processes involved, the range of possible options for change or the likely impacts of some of them. Clearly, the key challenge is to enable regional

wishes about the kind of places Kakadu and Jabiru will become in the future to be articulated in some detail. Only then will it be possible to establish the kind of service delivery systems and planning instruments that will be necessary to achieve such a goal. The absence of this important yardstick makes it next to impossible to adequately judge the merit or otherwise of several major proposals for change.

(Kesteven and Lea 1997:67)

The following indicative Aboriginal comments have been recorded on these issues:

They should put on that native title claim to protect our interests in Jabiru. They should do that straight away.

To get the Jabiru town area back we need to claim it, or maybe go to Parks because they own the land.

Why isn't Jabiru binning land?

I'd like Jabiru not to get any bigger or go any further. And to get some rights to speak about what happens there.

Every Aboriginal person who lives in Kakadu should be asked about Jabiru normalisation because that will affect everyone's future, all our kids.

Normalisation won't just affect the traditional owners of the land for the town area. It will affect everyone.

Who is pushing for open town?

(Crough and Cronin 1997:49-50)

Jabiru should not be an open town. No-one has spoken to bininj about Jabiru being an open town. This is the first time we have heard about this.

Aboriginal people need to be elected to town council.

No more businesses in the region - Aboriginal people don't get employed anyway.

(APC field notes)

Kesteven and Lea consequently point to the following needs:

1. To formulate a collective regional vision for the development of Jabiru.

The first provision that has to be made is of information. Kesteven proposes "a series of reciprocal information-sharing workshops", covering the history and development of the town, current and possible control structures, and ideas about "normalisation", and using a planning consultant and cross-cultural interpreter to ensure effective mutual understanding

between Aborigines and non-Aboriginal agencies. The outcomes should be assessed by the project that is put in place to monitor social impact after the present Study is complete.

These information workshops are proposed as the preliminary stage of a process towards formulating a regional vision. This needs to elicit the range of Aboriginal views, with due deference to the position of the traditional owners, and accommodate and reconcile them with the range of non-Aboriginal views, with further deference to the values of the World Heritage Park of which Jabiru is a part. The regional planning forum could be centred around the Kakadu Board of Management, or around the entity established to represent Aboriginal interests in the future monitoring of social impact.

2. To decide new institutional arrangements to achieve the agreed regional vision.

The Park Plan of Management planning process cannot be expected to take on a continually expanding responsibility for town governance and management. Whatever new arrangement is settled upon, Aboriginal interests could again be ascertained and articulated through the structure set up to monitor future social impact.

3. To determine the Aboriginal position regarding desirable services and functions of Jabiru.

Reducing the gap of ignorance and misunderstanding between themselves and the non-Aboriginal population, developing community service infrastructure eg. a Women's Resource Centre, and control of alcohol, are major concerns.

4. To identify data and planning needs for future development.

What are the needs of the regional population including visitors and what are the possible economic futures for Jabiru? A full strategic planning study is needed. Timing should follow completion of the three steps above and should take into account upcoming development decisions on Jabiluka and Koongarra.

The Aboriginal Project Committee was generally of the view that Aboriginal ownership of the Jabiru town area had to be legally recognised. Beyond that, the Committee endorsed the need identified by the consultants for information and communication.

I don't think anyone knows what they want. Relationships are OK between balanda and bininj right now. Nothing bad has happened recently. I think we should sort out what we want. It's basically a good town. (APC minutes)

4.3 The Future Monitoring of Social Impact

This section summarises and discusses the consultancy report prepared by Sue Kesteven for the Aboriginal Project Committee. When the development of the Alligator Rivers region uranium deposits was approved in the late 1970s, monitoring was part of the package. This was conceived comprehensively, to include the physical and social environments. Responsibility for each, however, was allocated to different institutions, the Environmental Research Institute of the Supervising Scientist (then Office of the Supervising Scientist, part of the Commonwealth Department of the Environment) instigating a program of research on the impact of mining on the biophysical environment, and the Project to Monitor the Social Impact of Uranium Mining on the Aborigines of the Alligator Rivers Region being established within the then Australian Institute of Aboriginal Studies to do as its title indicated. The latter had an initial lifespan of five years, after which, despite official representations to Government from within the Project, it was not extended. The Project's recommendation no.6 (AIAS 1984:306), that social impact monitoring be continued, was disregarded. Since that Project's final report was submitted in 1984, until the instigation of the present Study in October 1996, there has been no agency operating in the region pursuing a brief of comprehensive social impact monitoring. The Committee believes such a state of affairs must be avoided at the end of this Study.

Kesteven found a clear view that the region to be monitored should extend into western Arnhem Land to include Gunbalanya. There was also emphasis on action-oriented research controlled by and accountable to Aboriginal people, addressing real problems:

The most frequently mentioned current (and not-so-current) consequences of impacts were:

- the effects of alcohol
- lack of employment (less to do with the lack of opportunities, and more to do with young people not availing themselves of the opportunities)
- social fragmentation, which was manifested by people withdrawing from the public arena

- disputes between Aboriginal people and organisations and frequent arguments about money disbursements
- the pace of change, and feelings that Aborigines were not in control of factors affecting their lives and culture
- the lack of remedial action towards impacts clearly evident for some time.

(Kesteven 1997:18)

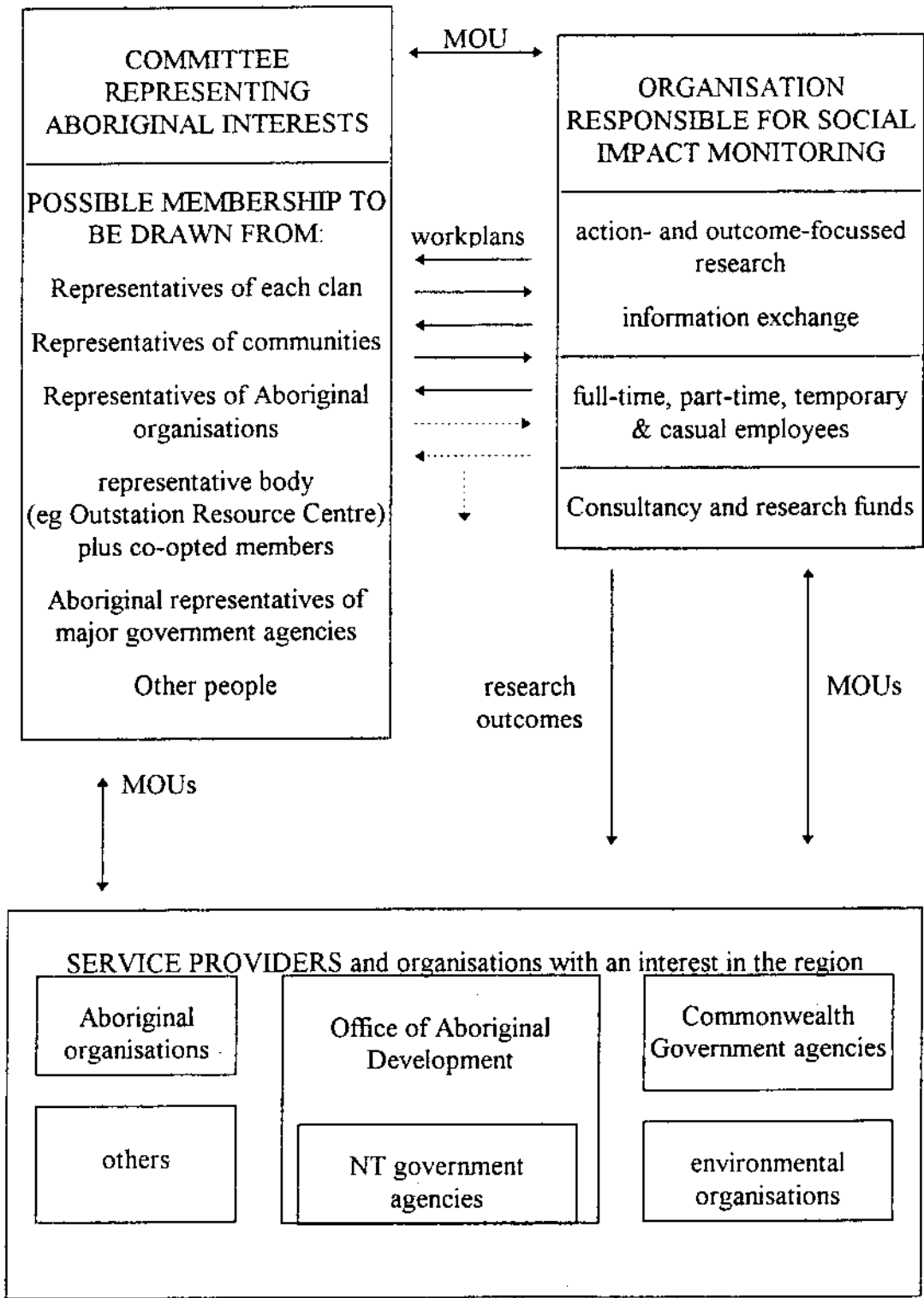
The model proposed by Kesteven for future social impact monitoring is shown in the diagram overleaf. It conceives of a tripartite monitoring regime, involving (i) an independent committee with comprehensive representation of Aboriginal interests, (ii) a research capacity created for social impact monitoring and housed in an appropriate host organisation, and (iii) the set of agencies that provide services or maintain an oversight function with respect to Aboriginal affairs in the region.

Most attention has been given by Kesteven to the selection of an appropriate host organisation. The possibilities considered were the Northern Land Council, Parks Australia, the Environmental Research Institute of the Supervising Scientist, an existing local Aboriginal organisation, a collectivity of local Aboriginal organisations, the Northern Territory Office of Aboriginal Development, ATSIC, or a research institution such as the Australian Institute of Aboriginal and Torres Strait Islander Studies. Each of these possible hosts was matched against a set of criteria including its existing jurisdiction and functions, its local field presence and support facilities, its willingness and ability to take on the role, Aboriginal and other views of its suitability, and potential conflict between monitoring and its existing work.

In Kesteven's judgment, ERISS appeared to meet the criteria most closely. It is a Commonwealth organisation operating on land under Commonwealth authority, it is legally allowed to operate across the full extent of the region relevant to social impact monitoring, and it is responsible for no service-delivery functions with which a monitoring role might conflict [other than, it should be said, the service aspects of the monitoring role itself]. She further assessed it as follows:

Advantages - summary:

- it has a field presence and very good facilities
- set-up costs would be minimal and there is significant administrative support



- it has the trust of some Aboriginal people with respect to monitoring mining activities (though most do not know what it does)
- it has a legislative basis to do so, and the right to obtain information relevant to carrying out its purpose
- the social and physical environments are not separate, and need integration; ERISS could combine the two
- it would be able to access some funding.

Disadvantages - summary:

- it is strong on biophysical side, but has no expertise in social monitoring
- it needs to build up expertise in the social environment
- it has been present in the field for eighteen years but has not engaged with local Aboriginal people, nor has it employed many
- it would need a significant culture change, both with respect to how it undertakes its current work (which should include Aboriginal knowledge of the environment) and also in order to accommodate action-oriented social impact programs controlled by Aboriginal people
- its legislative base is dependent on mining rather than impacts generally, and therefore has finite life. (Kesteven 1997:30-31)

With respect to the fourth point in the above list of advantages, ERISS' legislation appears on the face of it to restrict ERISS to monitoring the environmental impact of "uranium mining operations". It is difficult to know how restrictively this phrase should be interpreted: could it, for example, include the social impact of royalty distributions? Certainly, it does not appear to encompass the impacts of tourism and Park management, and would therefore not allow ERISS to be the host organisation for a comprehensive program of social impact monitoring. The Director of ERISS, however, has advised that its list of functions includes provisions of sufficient generality to encompass all aspects of social impact research. Any uncertainty on this point needs to be removed before any further steps are taken in the direction recommended by Kesteven.

ERISS has already acknowledged a failure to communicate the nature of its existing work and research findings to Aboriginal people. It has also announced an intention to establish a

program of social impact monitoring. It proposes an initial twelve month position to design a social impact research program, and to establish procedures for communicating the significance of ERISS' work to Aboriginal people and for involving them in it. The Committee has endorsed this proposal provided that the recommendations emanating from it take cognisance of the outcomes of this Study.

A number of other matters could be raised regarding the model of social impact monitoring proposed by Kesteven. The relationships set out in Kesteven's model will have to be negotiated before being reduced to Memoranda of Understanding. The husbanding of these negotiations could be added to the list of duties of the proposed ERISS position. It is not clear how prescriptive the Memoranda are intended, or need, to be. Will they go beyond laying down the basic presumptions and ethos of these relationships? A number of specific issues will have to be decided. Two come readily to mind. Will ERISS be represented on the Aboriginal committee? ERISS has the power to obtain information relevant to its functions from anyone; should the committee have the right to see any such information?

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be factored in. This includes the work of mustering people for meetings, which is ultimately a drain on morale as much as on time and other resources.

Ultimately, there is also the question of power, and of empowerment. Aboriginal comments recorded during this Study testify to a sense of the inexorability of continued, unending development.

If the mine cannot be stopped then binning should go for best possible deal. The deal should include wider issues such as the town, royalties, park etc. People will get crushed if they don't develop an alternate proposal for negotiation.

It's getting hard for traditional owners to control country, like the changes we are trying to make about fishing and closing areas off for binning to use. The greensies and fishermen and the NT Government are always looking over our shoulder. It's not the balanda staff that are trying to run things but all the outsiders telling us what to do that makes us feel like we haven't got control of our country. It's not treated like private property. It is, but it's not.

Problems develop. Wilderness gets compromised for development. Land use is the issue not fish stocks. Stopping fishing is a way of limiting development and over-exploitation of wilderness.

It's a problem with tourists wanting more places. Like we wanted to get pandanus but we were worried about getting caught by Parks and were hiding from tourists. It's intimidating.

When you try and control development, they tell you there have to be more and more tourists.

Binning should hear what happens with complaints about tour operators and tourist behaviour. Is there ever going to be control over the numbers of tour operators?

If we say no to Parks, they say no. If we say no to NLC, they say we'll think about it, come back in 5 years. If we say no to mining company, they say yes.

Binning should have the final say in everything, every issue. If people want to stop fishing they should be able to. (Crough and Cronin 1997:50-51)

When considering Kesteven's report, the Aboriginal Project Committee were also advised of a critique prepared for the Northern Land Council by Ciaran O'Faircheallaigh (1997).

O'Faircheallaigh made two principal points. The first was that a strong case in favour of ERISS as the host institution had not been made out, especially, given its statutory

accountability to its Minister, with respect to its capacity to discharge unfettered responsibility to an Aboriginal committee. The second was that the instrument of a Memorandum of Understanding, used extensively in Kesteven's model, would not guarantee adequate outcomes to Aboriginal interests, and that what was needed was a sequence of legally binding relationships entered into between proponents of any new developments, governments, and an Aboriginal committee, that guaranteed effective monitoring.

The Aboriginal Project Committee considered the Kesteven report and O'Faircheallaigh's critique, and then discussed the options for housing a social impact monitoring research team. The Committee decided that a new and separate entity, such as the existing Project Team arrangement, was the most desirable. The Committee also considered that the Aboriginal committee should be vested with legal rights:

How will we get the power? We can make a contract with ERA but how do you make Parks, NLC or Jabiru Town Council accountable. Even if we have to start with a little bit of power whatever power we can get. The committee should have the same legal powers and the same standing as any organisation it is dealing with.

(APC minutes)

The issue for the future of social impact monitoring is not only one of establishing a regime of accountable monitoring, but of whether the process can provide any defence for Aborigines against the negative effects of endless externally-imposed change, one of the most important of such effects being the sense of helplessness to stop it.

People who stayed on country have seen the changes, as new things coming in pushed aside their own ways. New ideas and ways of life make older style ones still look differently at things. Good for the mob who passed away earlier and don't have to be hit by all these changes. Young mob will be hit by even more and there will be more changes.

(APC field notes)

Several Committee members have endorsed a community development approach to future social impact monitoring. This implies not only an interventionist attitude towards observable problems, but an attempt at positive planning and initiatives of the kind recommended in earlier sections of this report. Finally, the Committee took the view that the geographical scope of social impact monitoring work should be the present Kakadu region, and should not include Gunbalanya at least for the time being.

4.4 Conclusion: ownership and respect

This report has already made reference to the continuing importance placed on traditional ownership within Aboriginal conceptions of responsibility towards and authority over country. The point was also made that legal tests of ownership do not consistently accord with local Aboriginal conceptions, so that those born of previous generations of male owners continue to be owners, even though a court may decide differently. Long-term residents too have been referred to as having gained, by their presence on and accumulated Aboriginal knowledge of the area, local standing as spokespersons and custodians.

Underlying all these points is one that is fundamental to understanding the Aboriginal position within the new Kakadu regime. Kakadu is Aboriginal land, and so those that own it, or live on and know it, are entitled, before anything else, to respect from those who have come to pursue non-Aboriginal purposes on that land. Respect and good understandings are seen as the ideal and the proper basis for conducting relationships. They should inform the quality of political life and decision-making. From that position, and from the experience of the failures of communication, participation and accountability that have been documented above, Aboriginal people now speak of the need for rights and powers.

Two things flow from this. The first is that all of Kakadu, including Jabiru, should be legally Aboriginal land. If the Aboriginal political position is to be sustained or enhanced, it must be underwritten by that legal recognition. Indeed that recognition would probably be seen itself as an act of respect from the non-Aboriginal polity to the Aboriginal culture of Kakadu. It is also seen as a necessary act of empowerment. The fishing issue has increased awareness of the specific weakness of Aboriginal interests over areas not legally owned. Legal standing is seen as a precondition to dealing with others with mutual respect; there is a mutuality perceived between rights and respect.

Jabiru should be Aboriginal land. Bininj person should have legal power too, so balanda and bininj can understand each other and work together.

Bininj people should have laws from Commonwealth Government like the other organisations. Bininj own the land the other organisations are just using the land.

Bininj has got a job to look after country for the future for our kids.

We got our law, it's been here long time, but not in the balanda paper. Our law need to be with balanda law. Balanda law comes from government but ours come from land. Our law comes from grandfather, clan, ceremony, skin name, language. But balanda don't respect our law and we have to follow balanda law. Balanda don't respect our law but we respect their law. (APC field notes)

The second thing that flows is a more expansive, generous and inclusive ethos of dealing. Not only the non-Aboriginal agencies that pursue their jurisdictional responsibilities in the region, but Aboriginal people too, in positions of influence in Associations or on the Board of Management, have a responsibility to inform and involve others. The demand for meaningful two-way communication has another corollary: Aboriginal law and culture should become part of the currency of governance in the region.

What does the Board of Management talk about when they meet? Does the Board talk about bininj ceremony and culture? Bininj on the Board should talk bininj law and culture.

Park staff should be learning to speak language. They've said this themselves.

Those scientists they don't know anything about our country. We do, because we're still going hunting and everything.

Where the bininj law in the bininj organisations? (APC field notes)

This Aboriginal vision for the future of the Kakadu region in the end refers back to participation by Aboriginal people themselves. For some, it culminates in scepticism; for others, in a prediction: respect for Aboriginal culture and knowledge will enhance Aboriginal self-esteem, and participation in governance will enhance the quality of the Aboriginal contribution to regional affairs. That on which respect is bestowed will become more worthy of respect.

Handing over control to Aboriginal people will only work if they are prepared to take it on and make things work. Aboriginal people have to exercise responsibility, so it would only work in Kakadu if they were prepared to do that . . . How do you move balanda law and power back? I can't see Aboriginal people running the Park themselves. It might work in limited areas if Aboriginal people are educated.

Do bininj just sit around and wait for balanda? Bininj doing nothing at the moment - doing ceremony and looking after the land. Nobody ever asked bininj to do anything.

Your culture should stand in front of you. It's your power. If you forget about, you'll slowly lose it and won't even know. Then there'll be a question mark hanging over you: where do you come from? How come you don't know your culture? Traditional owners should have the final say. Then respect as people who know law and country and can make good decisions will come back. Otherwise [they] feel powerless. If someone else is doing it for him he's not proper bininj. If he has power to control it, bininj will step forward and take his role well.

(APC field notes)